

SUSTAINED RATE AND DISCIPLINE IMPOSED

CHAPTER 7

The first column in Illustration 7A lists the Council District with their corresponding Council Members.

A Council District indicates the location where the incident that lead to a complaint occurred.

Unknown/Outside City Limits means that the location of the incident is unidentifiable or not within the San José district. The first row in Illustration 7A lists the Formal closed cases and its sustained findings. The Formal closed cases are those cases that were closed for the period from January 1 through December 31, 1999, regardless of when these cases were received.

Excluded from this illustration are the Informal, Policy, Procedural, No Boland, Inquiry, and non-sworn or reserve officer cases. These cases did not have a finding or the investigation was not fully completed or was closed

Illustration 7A: Sustained Cases by Council District

Council Districts	Formal Closed Cases		Formal Sustained Cases	
	CI	DI	CI	DI
1 LEZOTTE	5	0	1	0
2 POWERS	10	0	1	0
3 CHAVEZ	62	10	5	7
4 MATTHEWS	8	0	1	0
5 DIAZ	19	1	1	1
6 FISCALINI	10	3	2	3
7 SHIRAKAWA, JR.	20	1	3	1
8 WOODY	10	1	2	1
9 DIQUISTO	7	0	1	0
10 DANDO	2	0	0	0
Unknown/Outside City Limits	9	12	4	10
Total Cases	162	28	21	23

Note that this tabulation does not include non-sworn personnel or reserve officers cases.

with a No Finding classification, to merit the full spectrum of the findings¹⁹ that are possible from a fully investigated case.

Illustration 7A indicates that 21 out of 162 Formal CI closed cases were sustained, which resulted in an 13% sustained

rate. In contrast, 23 out of 28 Formal DI closed cases were sustained, a 82% sustained rate. The combined sustained rate for Formal cases in all the Council Districts is 23%.²⁰

¹⁹ See Appendix F (Definition of Findings).

²⁰ The 23% sustained rate was derived from the total number of sustained cases (44), divided by the number of Formal closed cases (190). Informal, Policy, Procedural, No Boland, and Inquiry cases do not have findings. Also excluded are the non-sworn or reserve officer cases.

Of the 190 Formal cases closed in this reporting period, January 1 through December 31, 1999, fifty-four (54) disciplines were imposed, see Illustration 7B.

Discipline²¹ is only imposed on Formal complaints, which are the most serious misconduct complaints. This type of complaint is initiated by a citizen (Citizen-Initiated - CI complaints) or by the Chief of Police (Department-Initiated - DI complaints.)

In Illustration 7B, the disciplines are listed by increased level of severity. When an officer is retired from the department, the open investigation is closed with a No Finding. The retired category is not a disciplinary action, but rather it is included for the purpose of tracking how many officers retired before the finding of the investigation was completed.

An officer receives discipline based on the entire complaint

Illustration 7B: Discipline Imposed for Formal Cases

Type of Formal Disciplines Imposed	CI	DI	Total	%
Training and/or Counseling	8	3	11	20%
Documented Oral Counseling (D.O.C.)	6	9	15	28%
Letter of Reprimand (L.O.R.)	1	6	7	13%
10-Hour Suspension	1	0	1	2%
20-Hour Suspension	3	2	5	9%
40-Hour Suspension	2	2	4	7%
80-Hour Suspension	1	1	2	4%
160-Hour Suspension	2	0	2	4%
Demotions / Transfers	1	0	1	2%
Terminations	1	1	2	4%
Retired	1	1	2	4%
Settlement Agreement	1	1	2	4%
Total Formal Disciplines Imposed	28	26	54	100%
%	52%	48%	100%	

Note that this tabulation does not include non-sworn personnel or reserve officers cases.

and not based on each separate allegation. For example, an officer may have had three allegations sustained, but will receive only one discipline (such as letter of reprimand, documented oral counseling, suspension, demotion, transfer, or termination.) An officer may receive training and/or counseling, even though the allegation in a complaint is not sustained.

In Illustration 7B, the three disciplines imposed for Formal cases with high frequency are Documented Oral Counseling (15 or 28%), Suspension (14 or 26%), and Training and/or Informal Counseling (11 or 20%).

In Illustration 7C, the data reflects the allegations where discipline was imposed. It can not be inferred that on a certain allega-

21 See Appendix G (Definition of Discipline Imposed).

tion discipline was imposed, because the discipline is based on the entire complaint. When an Unnecessary Force allegation is investigated, the finding has resulted in the case being closed with a finding of Exonerated or No Finding. In many cases, the reasons are that no independent witnesses or solid evidence was found to support the allegation. In 1999, for the first time, three Unnecessary Force cases were closed with a Sustained finding. And the discipline imposed was Documented Oral Counseling, Suspension, and Termination.

Illustration 7D depicts five years of Formal disciplines for cases closed from January 1 through December 31, 1995, 1996, 1997, 1998, and 1999.

Illustration 7D shows that the disciplines imposed most frequently are Training and/or Counseling, Documented Oral Counseling, Suspension and Letter of Reprimand. Demotions or transfers are either one or none in occurrence.

Illustration 7C: Allegations of Discipline Imposed for Formal Cases

Type of Formal Disciplines Imposed	Allegations					
	IP	MDP	RC	UC	UF	US
Training and/or Counseling	8	1	1	2	0	0
Documented Oral Counseling (D.O.C.)	8	5	0	1	1	1
Letter of Reprimand (L.O.R.)	5	1	0	3	0	0
10-Hour Suspension	1	0	0	1	0	0
20-Hour Suspension	3	0	1	2	1	0
40-Hour Suspension	0	0	0	5	0	0
80-Hour Suspension	0	0	0	2	0	0
160-Hour Suspension	1	0	0	2	0	0
Demotions / Transfers	0	0	0	1	0	0
Terminations	0	0	0	2	1	0
Retired	2	0	0	2	0	0
Settlement Agreement	1	0	0	1	0	0
Total Allegations	29	7	2	24	3	1

Illustration 7D: Five Year View of Formal Disciplines Imposed

Type of Formal Disciplines Imposed	1995	1996	1997	1998	1999	Total	%
Training and/or Counseling	33	21	19	20	11	104	27%
Documented Oral Counseling (D.O.C.)	27	24	15	23	15	104	27%
Letter of Reprimand (L.O.R.)	16	19	13	11	7	66	17%
10-Hour Suspension	8	4	4	4	1	21	5%
20-Hour Suspension	0	0	5	3	5	13	3%
40-Hour Suspension	0	1	2	2	4	9	2%
80-Hour Suspension	1	1	1	2	2	7	2%
100-Hour Suspension	0	0	0	1	0	1	0%
120-Hour Suspension	1	2	2	0	0	5	1%
160-Hour Suspension	3	1	3	1	2	10	3%
13 Month Suspension	0	1	0	0	0	1	0%
Demotions / Transfers	0	0	0	0	1	1	0%
Terminations	2	2	0	1	2	7	2%
Retired	2	3	3	3	2	13	3%
Resigned	8	4	6	5	0	23	6%
Settlement Agreement	0	0	0	1	2	3	1%
Total Formal Disciplines Imposed	101	83	73	77	54	388	100%
%	26%	21%	19%	20%	14%	100%	

Note that this tabulation does not include non-sworn personnel or reserve officers cases.

